

Council Report

To:

The Honorable Mayor and City Council

From:

Maxine Calloway LCP., Director of Community Planning & Development

Date:

August 28, 2012

V-9-12

SUNNY ISLES EATERY - 2050 NORTHEAST 151 STREET

PETITION FOR MUSIC AND ENTERTAINMENT LICENSE PURSUANT TO CHAPTER 3, SECTION 3-8 OF THE CODE OF ORDINANCES FOR AN ADULT ENTERTAINMENT ESTABLISHMENT IN THE M-1 DISTRICT

RECOMMENDATION

That the City Council approves the Board Order granting a music and entertainment license to Sunny Isles Eatery for the proposed Adult Entertainment Establishment located at 2050 North East 151st Street in North Miami.

BOARD OF ADJUSTMENT RECOMMENDATION

At its meeting on August 15, 2012 the Board of Adjustment, by a vote of 5-2, approved the request for a music and entertainment license with the following conditions:

- 1. That security is provided on all nights when music and entertainment is provided. For the first 90 days of operation, there shall be two off-duty police officers on all nights. After the first 90 days, there shall be two off-duty police officers on weekends (Friday night through Monday morning), and one off-duty police officer on all other nights. Furthermore, this arrangement will be evaluated by the City Manager and the Chief of Police to determine if the level of security and security detail is sufficient for the establishment, and the City reserves the right to make any modification to the security detail whether by increasing or decreasing the level of security.
- 2. The establishment shall not cause or create noise or other nuisances in the neighborhood. At a minimum, soundproofing of the building shall be provided.
- 3. The use of the establishment as an adult entertainment establishment (gentlemen's club) shall not cause, directly or indirectly, an upsurge in crime or police response incidents at or about the premises, as determined by the City of North Miami Police Chief.
- 4. The establishment shall at no time be rented to or allowed use by a promoter of any kind for events wherein the general public is invited to attend.



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- 5. The use of the establishment as a gentlemen's club shall not cause, directly or indirectly, any activity deemed to be a threat to the public health, safety, comfort, order, appearance, morals, and general welfare and quality of life in the City of North Miami, as determined by the City of North Miami Police Chief.
- 6. The applicant shall arrange with the North Miami Police Department frequent random police service calls for narcotics sniffs.
- 7. The operations on the site will be monitored by the North Miami Police Department and the Department of Community Planning & Development for compliance with these conditions and compliance with the City of North Miami's Code of Ordinances.

BACKGROUND INFORMATION

- 1. The applicant was granted a special exception use by the Board of Adjustment to allow an adult entertainment establishment on June 20, 2012. Subsequently, on June 26, 2012 the City Council voted to allow adult entertainment establishments to serve alcoholic beverages.
- 2. On August 15, 2012, the Board of Adjustment reviewed the applicant's request for a music and entertainment license, a distance waiver variance for alcoholic beverage sales from a residential use, and a variance to allow extended hours for alcoholic beverage sales. After much consideration and discussion, the Board approved the music and entertainment request, and denied the variance for the distance waiver and extended hours.

Chapter 3, Section 3-9 of the City's Code of Ordinances stipulates the following standards for providing a music and entertainment license:

- 1. The granting of a music and entertainment license will not substantially injure or detract from the use of the surrounding properties or from the character of the neighborhood.
 - The granting of the music and entertainment license should not substantially injure or detract from surrounding properties or the character of the neighborhood, provided the applicant adheres to the conditions above and to keeping the windows and doors closed, patrons inside, and to the hours of alcoholic beverage sales stipulated.
- 2. There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion.



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The required parking is five spaces plus one space for each fifty square feet of customer service area. Since there is 6,730 square feet of customer service area proposed, a total of 140 parking spaces are required. The proposed plan provides for 144 parking spaces, 38 of which are valet spaces. The Land Development Regulations state that up to 50% of the required parking may be designated for valet purposes, and the applicant's plan provides 38 valet spaces, which is 27% of the required parking.

3. Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic.

There will be adequate and appropriate lighting at the site. Since there will be a change in use at the property as well as new parking constructed, the lighting must meet the current requirements of the Florida Building Code.

4. Nightclubs shall be soundproofed and their windows, doors, and other openings kept closed in order that the noises there from may not disturb the peace and quiet of the surrounding neighborhood and noise caused by the establishment shall be kept at such a level so as to conform to the zoning code.

The establishment will be soundproofed during the renovations of the building. The windows and doors will also be kept closed.

5. Whether or not there is adequate security provided by the establishment.

The applicant has agreed to providing off-duty police officers. The applicant also stated that they will have one security guard to watch the parking lots and bouncers for inside the premises from opening to closing every day.

The City Council approval is based on the applicant satisfying the conditions specified for a music and entertainment license as well as future compliance with all conditions imposed.

JM/mc

Attachments

- Board of Adjustment Staff Report
- 2. Development Application
- 3. Board of Adjustment Order



776 Northeast 125th Street, P.O. Box 610850, North Miami, Florida 33161-0850 (305) 893-6511

To:

Board of Adjustment

From:

Joanne Martin

Zoning Administrator

Building and Zoning Department

Date:

August 15, 2012

V-9-12 SUNNY ISLES EATERY – 2050 NORTHEAST 151 STREET

PETITION FOR MUSIC AND ENTERTAINMENT LICENSE PURSUANT TO CHAPTER 3, SECTION 3-8 OF THE CODE OF ORDINANCES, A VARIANCE TO CHAPTER 3, SECTION 3-10 TO ALLOW EXTENDED HOURS FOR ALCOHOLIC BEVERAGE SALES AND CONSUMPTION, AND A VARIANCE TO CHAPTER 3, SECTION 3-11 TO ALLOW A DISTANCE WAIVER OF 627' FROM A RESIDENTIAL USE, WHICH IS 873' FROM THE SUBJECT PROPERTY, WHERE THE REQUIRED DISTANCE IS 1,500', IN THE M-1 DISTRICT

RECOMMENDATION

Staff is recommending approval of the music and entertainment license and distance waiver variance with the following restrictions and conditions and denial of the variance to allow extended hours of alcoholic beverage sales and consumption until 6:00 am:

- 1. That security is provided on all nights when music and entertainment is provided. For the first 90 days of operation, there shall be two off-duty police officers on all nights. After the first 90 days, there shall be two off-duty police officers on weekends (Friday night through Monday morning), and one off-duty police officer on all other nights. Furthermore, this arrangement will be evaluated by the City Manager and the Chief of Police to determine if the level of security and security detail is sufficient for the establishment, and the City reserves the right to make any modification to the security detail whether by increasing or decreasing the level of security.
- 2. The establishment shall not cause or create noise or other nuisances in the neighborhood. At a minimum, soundproofing of the building shall be provided.

- 3. The use of the establishment as an adult entertainment establishment (gentlemen's club) shall not cause, directly or indirectly, an upsurge in crime or police response incidents at or about the premises, as determined by the City of North Miami Police Chief.
- 4. The establishment shall at no time be rented to or allowed use by a promoter of any kind for events wherein the general public is invited to attend.
- 5. The use of the establishment as a gentlemen's club shall not cause, directly or indirectly, any activity deemed to be a threat to the public health, safety, comfort, order, appearance, morals, and general welfare and quality of life in the City of North Miami, as determined by the City of North Miami Police Chief.
- 6. The applicant shall arrange with the North Miami Police Department frequent random police service calls for narcotics sniffs.
- 7. The operations on the site will be monitored by the North Miami Police Department and the Department of Community Planning & Development for compliance with these conditions and compliance with the City of North Miami's Code of Ordinances.

BACKGROUND INFORMATION

- 1. The applicant was granted a special exception use by the Board of Adjustment to allow an adult entertainment establishment on June 20, 2012. Subsequently, on June 26, 2012 the City Council voted to allow adult entertainment establishments to serve alcoholic beverages.
- 2. The applicant is now seeking a music and entertainment license, a distance waiver variance for alcoholic beverage sales from a residential use, and a variance to allow extended hours for alcoholic beverage sales.
- 3. The proposed days and hours of operation by the applicant are Monday through Friday from 3:00 pm to 6:00 am, and Saturday and Sunday from 1:00 pm to 6:00 am.
- 4. The applicant stated the kitchen will be open for service during all days and hours of operation. The restaurant style menu will include appetizers, sandwiches, and entrees.

STAFF ANALYSIS

Music and Entertainment License:

Chapter 3, Section 3-8 states that any vendor licensed to sell alcoholic beverages for consumption on the premises may provide music and entertainment upon approval by the Board of Adjustment and final approval by the City Council. Section 3-9 provides the following standards for the granting of the music and entertainment license:

1. The granting of a music and entertainment license will not substantially injure or detract from the use of the surrounding properties or from the character of the neighborhood.

The granting of the music and entertainment license should not substantially injure or detract from surrounding properties or the character of the neighborhood, provided the applicant adheres to the conditions above and to keeping the windows and doors closed, patrons inside, and to the hours of alcoholic beverage sales stipulated.

2. There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion.

The required parking is five spaces plus one space for each fifty square feet of customer service area. Since there is 6,730 square feet of customer service area proposed, a total of 140 parking spaces are required. The proposed plan provides for 144 parking spaces, 38 of which are valet spaces. The LDRs state that up to 50% of the required parking may be designated for valet purposes, and the applicant's plan provides 38 valet spaces, which is 27% of the required parking.

3. Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic.

There will be adequate and appropriate lighting at the site. Since there will be a change in use at the property as well as new parking constructed, the lighting must meet the current requirements of the Florida Building Code.

4. Nightclubs shall be soundproofed and their windows, doors, and other openings kept closed in order that the noises therefrom may not disturb the peace and quiet of the surrounding neighborhood and noise caused by the establishment shall be kept at such a level so as to conform to the zoning code.

The establishment will be soundproofed during the renovations of the building. The windows and doors will also be kept closed.

5. Whether or not there is adequate security provided by the establishment.

The applicant has agreed to providing off-duty police officers. The applicant also stated that they will have one security guard to watch the parking lots and bouncers for inside the premises from opening to closing every day.

Variance for Distance Waiver from Residential Use:

Chapter 3, Section 3-11 states that unless a variance is obtained from the Board of Adjustment, no alcoholic beverage application shall be approved when the place of business does not satisfy the distance separation requirements of alcoholic beverage establishments from schools, houses of worship, city parks and recreational areas, residential uses, and similar uses. The required distance separation for adult entertainment businesses is 1,500 feet.

The applicant is requesting a variance to the distance requirement because the proposed site is 873 feet from the property line of a residential use located at 14695 Northeast 18 Avenue, which is a large apartment complex.

Article 3, Section 3-606 specifies the following standards for the granting of a variance and states the Board of Adjustment shall find that the applicant demonstrates compliance with four of the six as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

There are no conditions peculiar to the land, structure, or building.

2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

The conditions necessitating the variance are not unique to this property in that no other property in the district would meet the distance requirement. The residential use in question is a large piece of property surrounded by industrial zoned property. In fact, almost all of the properties zoned for alcoholic beverage sales in the City would be in conflict with the 1,500 ft. distance requirement from residential uses.

3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the neighborhood.

The distance waiver variance maintains the basic intent and purpose of the regulations by ensuring that an alcoholic beverage licensee does not locate where houses of worship, schools, parks, and residential uses are normally located or are clustered in a very close proximity. The residential development is unique in its location amongst industrial property. Additionally, staff finds that its distance of 873 feet is an adequate distance to serve as a buffer from the subject location.

4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

Currently, there are no other similar uses in the M-1 district, although the district does permit as a special exception use adult entertainment uses, nightclubs, and bars/lounges/taverns. However, the literal interpretation of the provisions would deprive the applicants of rights, as the M-1 district is the only district that permits an adult entertainment establishment, yet at the same time provides confines because of residential uses within 1,500 ft. of the entire district.

5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.

The requested variance to allow a distance of 873 feet from a residential use where 1,500 feet is required is the minimum variance that will make possible the use of the property as a gentlemen's club serving alcoholic beverages.

6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

The granting of the variance will be in harmony with the general intent and purpose of Chapter 3, Section 3-14, which states that variances relating to the distance requirements may be granted upon application to the Board of Adjustment, and which in fact have been granted to almost all other alcoholic beverage licensees in the City.

Based on the above analysis, staff finds that at least four of the six standards for granting a variance have been met and therefore, recommends approval of the distance waiver variance.

Variance to Hours During Which Alcoholic Beverage Sales & Consumption are Allowed:

Chapter 3, Section 3-10 states that it shall be unlawful for any licensee to sell, serve, or distribute any alcoholic beverage between the hours of 1:00 am and 7:00 am on days Monday through Friday, between the hours of 2:00 am and 7:00 am on Saturday, and between the hours of 2:00 am and 1:00 pm on Sunday. In addition, consumption shall cease ½ hour after the hours licensed to sell/serve, or 1:30 am on days Monday through Friday, and 2:30 am on Saturday and Sunday.

The applicant is requesting a variance to allow the sale, distribution, and consumption of alcoholic beverages until 6:00 am on all days of the week. The letter of intent stated that the extended hours are necessary to be competitive with other similar businesses.

Staff is recommending denial of the variance to allow extended hours of sales and consumption until 6:00 am. Although there are four restaurants or bars within the City that appear to have a 5:00 am license for alcoholic beverage sales, Chapter 3 of the City's Code of Ordinances was changed by the City Council on February 26, 2008. One of the changes separated the music and entertainment license and the 5:00 am closing time that was granted along with the special fee the music and entertainment license carried, but nightclubs were excluded from the automatic 5:00 am closing. The revised Chapter 3 now stipulates the hours of sales and consumption for all alcoholic beverage establishments and also provides for an applicant to obtain a music and entertainment license. However, obtaining a music and entertainment license no longer allows extended alcoholic beverage sales. The Code specifically states that a variance must be applied for and obtained for extended hours. Since the revisions to Chapter 3 of the Code, staff has not encouraged nor has the Board of Adjustment approved any variances for extended hours, other than for one applicant. That applicant, Moca Café, operates primarily as a restaurant and was granted a variance to allow extended hours of sales until 3:00 am on Saturday, Sunday, and Monday mornings with the understanding that the kitchen would be open for food service until closing. The applicant had stated that the restaurant normally closes by 12:00 am and that it would not be open late all three nights, but that special events could take place on Friday or Saturday or Sunday nights. It was further reported by the North Miami Police Chief that there had been no incidents at the restaurant in the past to warrant concern.

In addition to not wanting to set a precedent for late night hours at the many alcoholic beverage licensee establishments in the City, Staff is concerned about the impact on the community and surrounding communities of patrons leaving an establishment after consuming alcoholic beverages at hours when many people are traveling to work and school. Statistics compiled by the U.S. Department of Transportation state that overall 32% of all fatal crashes involve alcohol-impaired drivers. However, between the hours of 12:00 am to 3:00 am the percentage jumps to 66% and between the hours of 3:00 am and 6:00 am the percentage jumps to 52%.

Article 3, Section 3-606 specifies the following standards for the granting of a variance and states the Board of Adjustment shall find that the applicant demonstrates compliance with four of the six as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

Although there are no other adult entertainment establishments or nightclubs in the M-1 zoning district, any future applicants would be held to the same standards of the code and would be subject to compliance with Chapter 3, Section 3-10 pertaining to the allowed hours for alcoholic beverage sales/consumption. All other lands in all other zoning districts are subject to the same regulations with regard to hours of sales and consumption and the regulations are not based on location, the land itself, or the structures on the land.

2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

There are no unusual circumstances or conditions necessitating the variance. In addition, there are no alcoholic beverage licensees in the neighborhood with extended hours to 6:00 am. Granting an extended hours variance to 6:00 am would make this place of business the only licensee in the City serving alcoholic beverages until that hour.

3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the neighborhood.

The requested variance does not maintain the basic intent and purpose of the subject regulations, which is to limit alcoholic beverage sales and consumption to specific hours, the latest hour being 2:00 am for sales and 2:30 pm for consumption.

4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

The literal interpretation of the LDRs does not deprive the applicant of rights enjoyed by other properties in the same zoning district. There are no licensees with extended alcoholic beverage hours in the district. Furthermore, since Chapter 3 was revised and adopted February 26, 2008, no other alcoholic beverage licensee in the entire City has been granted extended hours except for Moca Café, a restaurant at 738 NE 125 Street, which was granted extended hours for alcoholic beverage sales until 3:00 am on Saturday, Sunday, and Monday mornings.

5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.

The reasonable use of the land and building is not affected by the variance request, as the variance request is specific to this tenant, which can still operate as an adult entertainment establishment with music and entertainment and alcoholic beverage sales. Furthermore, staff does not consider four and five hours beyond what the code allows for alcoholic beverage sales to be a minimum variance.

6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

The granting of the variance will not be in harmony with the general intent and purpose of the LDRs which is to ensure that alcoholic beverages are not sold or consumed after a specified time. Furthermore, the LDRs state as its purpose to establish comprehensive controls for the use of land in the City of North Miami; to protect, promote and improve the public health, safety, comfort, order, appearance, convenience, morals and general welfare and quality of life in the City of North Miami; to establish rules of procedure for land development approvals; to enhance the character of the City and the preservation of neighborhoods.

Based on the above analysis, staff finds that at least four of the six standards for granting a variance have not been met and therefore, recommends denial of the variance to allow extended hours of alcoholic beverage sales until 6:00 am.

Applicable Ordinances

Chapter 3, Alcoholic Beverages

Zoning/Land Use

Zoning Designation: M-1, Industrial District

Existing Land Use: Industrial Future Land Use: Industrial

Attachments: Application and letter of intent

Plans and survey

Section 1: General Requirements

Application #: \\ \frac{19-13-}{9-13-}			
INSTRUCTIONS: Please print or type completely. Answer all questions. Do Applicable). DEVELOPMENT REQUEST Abandonment/Vacation of Right-of-Way or Easement (DRC) Administrative Variance (AV) Appeal of Administrative Interpretation (BOA) Annexation (PC)	check olicitype € □ Developmen □ Land Use P	The application must be a blank. If an item does not blank. If an item does not blank to f Regional Impact DRI lan Map Amendment (PC) Development (DRC)	ot apply, write N/A (Not
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DEVELOPMENT/PROJECT NAME: DEVELOPMENT/PROJECT ADDRESS OR LOCATION: 2050 NE 5 5T Legal Description (attach separate sheet if necessary): 06-272 -000-004 All Tax ID Folio Numbers: 06-272 -000-004 Project Narrative (Brief description) (Please attach as a separate sheet) ADISTANCE VARIANCE, AVARIANCE OF SERVING HOUSE; OF AICORD, A MUSIC BACKETAIN MENT LICENSE SEE ATTACH Residential Use(s)/Unit Type(s): NA Number of Residential Units: Existing Zoning Designation(s):			

Non-Residential Use(s) (Type & sq. ft.):	Proposed Zoning Designation(s):			
Current Use(s) of Property:	Existing Land Use Designation(s):			
Proposed Use(s) of Property:	M./			
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ADOLT ENTERTAINMENT BUSINESS	FNOUSTRIA!			
About ENTERTAINMENT BUSINESS Is the property platted? YES	Will the plat be affected by this application? If yes, please			
OR Book & Page:	explain.			
Plat Name:	100			
Is the property an existing legal lot of record?	Is the property the subject of Code Enforcement Action?			
If No, please explain.	If yes, Code Enforcement Case No.:			
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The foregoing instrument was acknowledged before me this // day	of July, 2012, by BERNARD NepARD			
(Signature of Notary Public – State of Florida)				
	NOTARY PUBLIC-STATE OF FLORIDA			
Louis Suire	Lourdes Suarez			
	Commission # DD900886 Expires: AUG. 07, 2013			
(Print, Type or Stamp Commissioned Name of Notary Public)	BONDED THRU ATLANTIC BONDING CO, INC.			
Personally Known OR Produced Identification Type of Identification Produced				

CONTRACT PURCHASER NAME	: CONTRACT	PURCHASER SIGNATURE:
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Telephone:	Fax:	E-mail:
☐ Copy of executed contract		
	NOTARIZATION	
STATE OF FLORIDA/COUNTY OF		
The foregoing instrument was acknowl	edged before me this day of _	,, by
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TENANT NAME:	TENANT SIGN	VATURE:
Sunny Isles Eatery Address: 16850 Collins Ave	#	
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STATE OF FLORIDA/COUNTY OF	rtn.	in The
The foregoing instrument was acknowled	dged before me this 10 day of 1	dy, 2012 by Marjone Tobin
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AGENT'S NAME: 7, 14 (AZEAN) AGENT'S SIGNATURE:
Address: 901 POWCE DE LEON 10TH FLOON Telephone: 305 517 1392 (162) Fax: 305 517 1396 (Great @ KLEINER (DIEAL) CO
Telephone: 305 517 1392 (102) Fax: Will the applicant be represented by an attorney at public hearing(s)?
Yes (please provide contact information):
□ No
NOTARIZATION
STATE OF FLORIDA/COUNTY OF The foregoing instrument was acknowledged before me this 16th day of July 2012, by Jeff P.H. Cazeau
(Signature of Notary Public - State of Florida) LINDA WILSON BOYD MY COMMISSION # EE 021813 EXPIRES: November 15, 2014 Bonded Thru Notary Public Underwriters
(Print, Type or Stamp Commissioned Name of Notary Public)
Personally Known OR Produced Identification Type of Identification Produced

	FOR CITY STAFF USE ONLY	
□ Application Fee: \$	SUPPORTING DOCUMENTS RECEIVED	
Mail Public Nation Programmed	Proof of Ownership	APPLICATION NO:
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RECEIVED & REVIEWED BY: COMMENTS:		
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LETTER OF INTENT

To: Board of Adjustment Members

Sunny Isles Eatery Inc. has leased a Warehouse / Showroom property known as 2050 N.E. 151 Street, North Miami, located in the M 1 Industrial Zone, which is situated near the railroad tracks. The applicant has plans to establish an Adult Entertainment Business (gentlemen's club) .This is already a PERMITTED uses within this M1 Industrial Zone and has received a Special Exception approval recently.

The purpose of this application is to seek the following approvals

- 1) A Distance Variance.
- 2) A Variance regarding the hours of operation and the serving of Alcoholic beverages.
- 3) A Nightclub/ Music and Entertainment License.

Sunny Isles Eatery plans include a Two Million dollar renovation to the 20,000sq.ft. Building that has been vacant for sometime. This business will employ approximately one hundred workers during construction and have a permanent staff of fifty employees. The major improvements to this property and the creation of new jobs will prove to be a benefit to this area.

The applicant has owned and operated a similar High Quality Gentlemen's Club for many years in the neighboring City of Sunny Isles Beach, known as the Beach House Cabaret, without any nuisances, or Police issues. The only reason for the relocation of this business (to the great city of North Miami) is the fact that the City of Sunny Isles Beach has purchased the entire three blocks of retail shops and other businesses in the center of their Causeway for a proposed performance center and park.

As stated, the approvals needed for the items listed above and the reasoning is as follows.

1) A Distance Variance is required because the city code for distance separation for ALL Establishments that serve or sell Alcohol is 1500 feet from any schools, house of worship, city parks, residential, and rec. area, uses, This location more than satisfies the distance from schools, house of worships, parks and rec.area. This location however is approximately 850 feet away from the rear wall of a parking lot and 1000 feet away from a building in the complex known as Centre Court Apartments. The Applicant is requesting a distance variance of 650 feet where 1500 feet is required. We believe that the City of North Miami Governing Boards and the city council has never denied a distance variance when requested for the serving and selling of alcohol.

2) The applicant is requesting a variance to the hours that Alcoholic beverages may be served, sold and consumed. The current law allows the applicant to serve and consume alcoholic beverages from 7:30am until 1:30 am, Monday, Tuesday, Wednesday, and Thursday and from 7:30am until 2:30 am Friday and Saturdays. On Sunday 1:00 pm until 1:30 am. The applicant has been asked by members of the city council not to sell alcoholic beverages or open before 3:00 pm weekdays (during the main schools hours) The applicant would like to exchange, trade or shift the permitted daytime hours to more nighttime hours' The applicant is requesting that the sale, serving and consumption hours be from 3:00pm until 6:00am Monday thru Friday, Then on Saturday and Sundays from 1:00pm until 6:00am.

The Applicant is currently permitted to serve alcoholic beverages 18 hours daily, Monday thru Thursday, On Friday and Saturday the permitted hour's total 19, and on Sunday the hours permitted total 12..5 The new hours proposed would actually DECREASE the total hours of serving alcoholic beverages weekly by 13.5 hours..

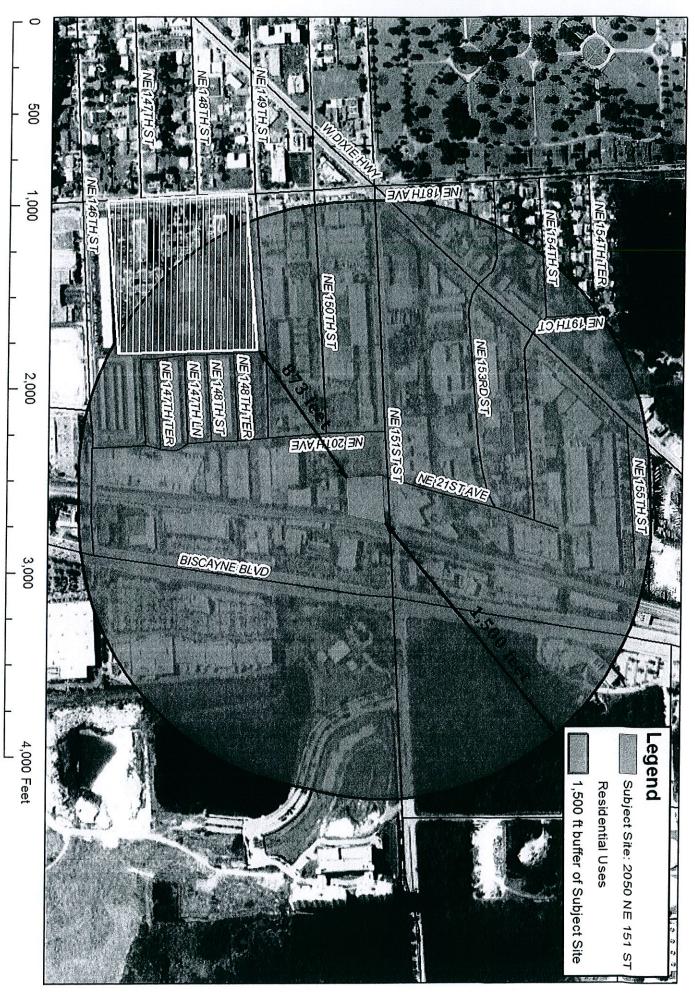
The applicant wishes to accommodate the city council members request, this shift in opening and serving hours necessitates the need for this variance, and for the applicant to be competitive with other upscale businesses in the area that are permitted longer opening and serving hours.

3) The Nightclub/ Music and Entertainment license is required when having any music live or recorded. The applicant is providing the site plan and floor plan to show that they have or will comply with the City of North Miami requirements, such as soundproofing, parking, lighting and security request.

The Sunny Isles Eatery looks forward to working the city staff to ensure that all concerns that may arise thought-out this process are addressed quickly and that our investment of millions of dollars leads to other having faith in North Miami.



1,500 Foot Buffer of Subject Site: 2050 NE 151 ST



Prepared by and Return to: Regine M. Monestime City Attorney CITY OF NORTH MIAMI 776 N.E. 125 Street North Miami, FL 33161

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BEFORE THE MAYOR AND CITY COUNCIL CITY OF NORTH MIAMI, FLORIDA

HEARING DATE: August 28, 2012 FILE NO. V-9-12

IN RE:

The Application of:

Sunny Isles Eatery, Inc. 151st Street Holdings, LLC 2050 Northeast 151st Street North Miami, FL

MUSIC AND ENTERTAINMENT LICENSE

The Applicant, Sunny Isles Eatery, Inc., with the consent of the property owner, filed an application with the Department of Community Planning and Development for a Music and Entertainment License ("License"). On August 15, 2012, the City of North Miami Board of Adjustment held a duly noticed public hearing and approved Applicant's request for a License, subject to the final approval of the Mayor and City Council ("City Council"). Accordingly, the City Council held a public hearing on August 28, 2012, and voted on the following:

PETITION FOR A MUSIC AND ENTERTAINMENT LICENSE PURSUANT TO CHAPTER 3, SECTION 3-8 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, IN THE M-1 ZONING DISTRICT.

Notice of the request for the License was given as required by law. The City Council finds that the property is located in the M-1 Zoning District and further finds:

1. The granting of the License will not substantially injure or detract from the use of the surrounding properties or from the character of the neighborhood.

- 2. There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and avoid traffic congestion.
- 3. Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic.
- 4. The Applicant will maintain windows, doors and other openings closed on the premises so that noise therefrom may not disturb the peace and quiet of the surrounding neighborhood and any noise caused by the establishment shall be kept at such a level so as to conform to the zoning code.
- 5. The Applicant will provide adequate security during nightclub operations.

IT IS THEREFORE ORDERED by the City Council, that the License as requested and set forth above for the location at 2050 Northeast 151st Street is hereby **GRANTED**, upon the following conditions to which the Applicant has agreed:

- 1. That security is provided on all nights when music and entertainment is provided. For the first 90 days of operation, there shall be two off-duty police officers on all nights. After the first 90 days, there shall be two off-duty police officers on weekends (Friday night through Monday morning), and one off-duty police officer on all other nights. Furthermore, this arrangement will be evaluated by the City Manager and the Chief of Police to determine if the level of security and security detail is sufficient for the establishment, and the City reserves the right to make any modification to the security detail whether by increasing or decreasing the level of security.
- 2. The establishment shall not cause or create noise or other nuisances in the neighborhood. At a minimum, soundproofing of the building shall be provided.
- 3. The use of the establishment as an adult entertainment establishment ("gentlemen's club") shall not cause, directly or indirectly, an upsurge in crime or police response incidents at or about the premises, as determined by the City of North Miami Police Chief.
- 4. The establishment shall at no time be rented to or allowed use by a promoter of any kind for events wherein the general public is invited to attend.
- 5. The use of the establishment as a gentlemen's club shall not cause, directly or indirectly, any activity deemed to be a threat to the public health, safety, comfort, order, appearance, morals, and general welfare and quality of life in the City of North Miami, as determined by the City of North Miami Police Chief.

6.	The Applicant shall arrange with the North Miami Police Department frequent random police service calls for narcotics sniffs.					
7.	7. The operations on the site will be monitored by the North Miami Police Departme the Department of Community Planning and Development for compliance with conditions and compliance with the City of North Miami's Code of Ordinances.					nd se
	Dated this	day of		, 2012.		
					OF THE CITY OF MI, FLORIDA	
				By: ANDRE D MAYOR	. PIERRE, ESQ.	
ATTE	ST:					
	ne Calloway, Direction		ent			
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the Ci	n, who acknowledg ty of North Miam I for the purposes of	ged that she is ("City"), a contained on	is the Director Florida municities behalf of the G	of Community Pla pal corporation, ar	Calloway, to me personal nning and Development and that this instrument whority of the City, and the City.	of ⁄as
Sv	vorn to and subscri	bed before n	ne this	_ day of	, 2012.	
				NOTARY PUBLI	C, STATE OF FLORID	 A
Му С	ommission Expires	s:				
BOA C	order V-9-12(RCG)		Page 3 of	`3		